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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/590,774  | 08/25/2006  | Ralf Neumann         | WK-5391             | 2467             |
| 24956 7590 08/06/2010<br>MATTINGLY & MALUR, P.C.<br>1800 DIAGONAL ROAD<br>SUITE 370<br>ALEXANDRIA, VA 22314 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| PARSLEY, DAVID J  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 3643  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/590,774

**Applicant(s)**

NEUMANN ET AL.

**Examiner**

DAVID J. PARSLEY

**Art Unit**

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 20 August 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 6-15-10 and this office action is a final rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 6,231,436 to Bakker.

Referring to claims 1 and 10, Bakker discloses an apparatus/method for the automated processing of meat, comprising a conveyor belt transport element – at 1 and 6 (conveyor belt at item 6), for transporting the meat, a cutting element for cutting or trimming the meat – see the meat stripping device described in column 1 lines 55-61, a counter surface for the cutting element – see at 11-17, and at least one control and/or regulating device which is in functional connection to the cutting element – the electrical controls for the conveyor/cutting device (not shown), in that a threading element – at 16,17, is mounted forwardly of the counter surface – at

14,15, – see figure 1, in a horizontal transport plane of the meat – see figure 1, the threading element being bent laterally from the counter surface in the horizontal transport plane at a horizontal angle with respect to the counter surface – see at 14-17 in figure 1, whereby an outer end of the threading element extends at least partially across and in the horizontal transport plane – see at 14-17 in figure 1, to at least partially lift one side of the meat prior to the meat reaching the counter surface - see at 15-17 in figure 1.

Referring to claim 2, Bakker further discloses the threading element – at 16, is integral to the counter surface - at 14,15 - see figure 1.

Referring to claim 3, Bakker further discloses the threading element is an extension of the counter surface – see at 14,15,16,17 in figure 1.

Referring to claim 4, Bakker further discloses the threading element is a spatula-like plate element - at 16, and has an elongated shape - see at 16 in figure 1, rounded at a free end - see figure 1, at the outer end of in the horizontal transport plane - see at 16 in figure 1.

Referring to claim 5, Bakker further discloses the threading element is chamfered – see the slot/groove between items 16 and 17 in figure 1.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakker as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. 2003/0176158 to Freund et al.

Referring to claim 6, Bakker further discloses a conveyor belt transport element as detailed above in paragraph 2 of this office action. Bakker does not disclose the unit consisting of counter surface and threading element is swivellable from a position outside of the transport element to a position over the transport element independently with respect to the transport element. Freund et al. discloses the counter – at 21, is swivellable – via items 39 and 50, from a position outside of the transport element – see figure 4, to a position over the transport element – see figure 1, independently with respect to the transport element - see at 39,50 in figure 4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Bakker and make the counter swivellable, so as to allow for easy maintenance and cleaning of the device.

Referring to claim 7, Bakker as modified by Freund et al. further discloses the counter surface – at 21 of Freund et al., is swivellable about at least one rotational axis – see at 50 in figure 4 of Freund et al. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Bakker and make the counter swivellable, so as to allow for easy maintenance and cleaning of the device.

Referring to claim 8, Bakker as modified by Freund et al. further discloses the counter surface is movable in a linear direction – see via the casters – at 46,46a in figure 2 of Freund et al. Therefore it would have been obvious to one of ordinary skill in the art to take the device of

Bakker as modified by Freund et al. and add the linear mobility of Freund et al., so as to allow for the device to be moved various positions as desired by the user.

Referring to claim 9, Bakker as modified by Freund et al. further discloses a deflector element – at 12 of Bakker, is arranged behind the counter surface in the direction of transport - see figure 1 of Bakker.

### *Response to Arguments*

4. Regarding claims 1-5 and 10, the Bakker reference US 6231436 discloses the transport element comprising a conveyor belt - at 6, the meat products are in contact with the conveyor belt as seen in figure 2 and column 4 lines 20-37 and therefore this conveyor belt facilitates transporting of the meat products. Bakker further discloses a cutting element - see the meat stripper described in column 1 lines 55-65 not shown in the drawings and Bakker further discloses the claimed counter surface - at 14-15 with associated bent threading element - at 16,17 as seen in figure 1 to allow for lifting of one side of the meat prior to reaching the counter as seen in figure 1 where the threading element is forward of the counter surface.

Regarding claims 6-9, the Freund et al. reference US 2003/0176158 discloses the swivellable threading element as detailed above in paragraph 3 of this office action. The swivellable threading element of Freund et al. is swivellable with respect to a transport element - at 2 as seen in figure 4. The transport element – at 2 of Freund et al. is not a conveyor belt but Freund et al. is not used to disclose the transport element is a conveyor belt. The Bakker reference is used to disclose the transport element is a conveyor belt as detailed above in

paragraphs 2-3 of this office action with the Bakker and Freund et al. references being deemed combinable given the reasons set forth above in paragraph 3 of this office action.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/  
Primary Examiner, Art Unit 3643